

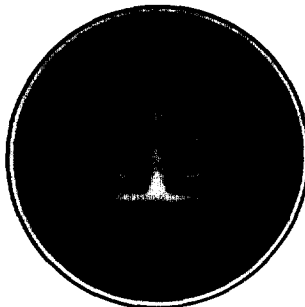
National Association of Regulatory Utility Commissioners

Incorporated

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July 5, 1996

Mr. William Caton, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RECEIVED
JUL 5 1996
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: NARUC EX PARTE COMMENTS - Two Copies Filed "In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996" CC Docket No. 96-98

Dear Mr. Caton:

On July 2, 1996, Craig Glazer, Chairman of the Ohio Public Utilities Commission, Jolynn Barry Butler, a Commissioner with the Ohio commission, and Scott Potter and Christine Pirik, Staff employed by the Ohio commission, met with the following:

10:00 a.m. - 10:30 a.m. Pete Belvin
10:30 a.m. - 11:00 a.m. Commissioner Susan Ness and Jim Casserly
02:30 p.m. - 03:00 p.m. Chairman Reed Hundt

J. Bradford Ramsay, Deputy Assistant General Counsel for the National Association of Regulatory Utility Commissioners joined in the 10:30 meeting with Commissioner Ness. During these meetings, the State representatives presented an overview of recent pro-competitive Ohio regulatory initiatives. A copy of the summaries and materials presented to the FCC representatives is attached. They also related these actions to the arguments and concerns about pricing issues and federal preemption generally raised in the initial and reply comments filed by NARUC and several of the states in the above-captioned proceeding.

If you have any questions concerning this filing, please do not hesitate to call me at 202-898-2200.

Respectfully Submitted,

James Bradford Ramsay
Deputy Assistant General Counsel

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Mailing Address: Post Office Box 684, Washington, D.C. 20044-0684
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*Member of the Executive Committee of the Association

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Pages

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**SUMMARY of
PUCO CASE NO. 95-845-TP-COI
(LOCAL COMPETITION)**

**SECTION II
CERTIFICATION**

Scope

- Each facilities-based and nonfacilities-based entity engaged in the business of providing local exchange service in Ohio as a common carrier shall be considered a local exchange carrier (LEC) subject to Commission jurisdiction.
- Nothing in Ohio's local competition guidelines precludes the Commission from waiving any provision of these guidelines for good cause shown or upon Commission motion.

Certification Process

- Commencing August 15, 1996, all applications seeking to provide basic local exchange services shall be subject to a 60-day automatic approval process unless suspended. Interested entities who can show good cause why the application should not be granted must file a statement with the Commission within 30 days after the application is docketed.

Serving Area/Local Calling Area

- NECs may self-define the area in which they will serve customers but must do so in a nondiscriminatory manner.
- NECs may establish their own local calling areas. Modifications to the local calling area may be made by filing a map clearly depicting the local calling area.

**SECTION III
INTERCONNECTION**

- Each LEC shall make available interconnection to other LECs, and negotiate in good faith with other LECs upon receipt of a bona fide request for interconnection, unless a waiver is ordered by the Commission.
- All LECs shall provide interconnection at any technically feasible points (at the tandem office, the end office, or any technically feasible point including meet point arrangement) within their networks using Feature Group D type interconnection, and may use one-way or two-way trunks.

- If collocation is the requested form of interconnection, all LECs shall provide physical collocation unless it demonstrates to the Commission (on an individual central office basis) that physical collocation is not practical for technical reason or space limitations. Virtual collocation shall be provided if requested by the interconnecting LEC.
- ILECs shall follow the Commission established pricing standards in the guidelines in setting these rates. However, NECs may mirror the interconnection rates of the ILEC with which they are interconnecting or establish its own rates pursuant to the Commission established pricing standards applicable to the ILECs.
- Bona fide request for interconnection shall be in writing and shall detail the specifics of the request including but not limited to, requested point(s) of interconnection, form of interconnection, technical description of requested interface equipment, requested reciprocal compensation arrangements, technical description of the required unbundled network elements, requested access to poles, conduits, and rights-of-way, requested white pages directory listings, requested telephone numbers by the interconnector, requested method(s) of number portability, requested telecommunications services for resale, requested method(s) of transit traffic function, requested completion date, and a list of contact persons for negotiation purposes.
- A LEC shall make available any interconnection, service, or network element provided under an agreement approved under these guidelines and under Section 252 of the 1996 Act, to which it is a party, to another requesting carrier under the same terms and conditions as those provided in the agreement. Existing EAS compensation arrangements shall be maintained until the Commission determines otherwise, since such arrangements are not approved by the Commission pursuant to Section 252 of the 1996 Act and shall only be available to other similarly situated LECs establishing an arrangement with a non-competing LEC. The Commission may impose Bill and Keep arrangements through arbitration if it deemed warranted by the Commission.

SECTION IV

COMPENSATION FOR THE TRANSPORT AND TERMINATION OF TRAFFIC

- All LECs shall have the duty to establish reciprocal compensation arrangements for the transport and termination of traffic. LECs shall be entitled to compensation for the use of their facilities owned or obtained by leasing from other underlying facilities-based LEC used by other carriers for the transport and termination of traffic.

- All ILECs and NECs exchanging local and toll traffic shall measure MOUs for compensation purposes or apply percent of local traffic factor. Upon mutual agreement, LECs may use separate dedicated trunks for local, intraLATA toll, and interLATA toll traffic transport.
- The Commission's criteria of evaluating the reasonableness of rates terms, and conditions for transport and local traffic termination is based on the 1996 Act's Section 252(d)(2). An interconnection arrangement may employ bill and keep as a method of compensation for the transport and an evaluation of the appropriateness of utilizing such method for the rest of the term of the agreement, shall be considered just and reasonableness an interim method affording the mutual recovery of costs through the offsetting of reciprocal obligation and waiving the mutual recovery of costs.
- For local traffic, LECs shall offer flat (per port capacity) compensation rate to other interconnectors requesting such a method of compensation. Compensation may also be offered on a usage-sensitive rates (per MOU) or which combine usage-sensitive elements and flat-rate elements. A NEC may mirror the transport and termination of local traffic compensation rates of the ILEC with which they are interconnecting or establish its own rates pursuant to the Commission established pricing standards applicable to the ILECs. This shall not preclude the LECs from negotiating other compensation arrangement that is consistent with the Commission guidelines.
- Concerning the transport and termination of toll traffic, the current prevailing ILEC's intrastate exchange access tariffs, shall be used by the ILECs for compensation for toll traffic transport and termination. Nec's shall tariff rates, terms, and conditions for transport and termination of toll traffic, or may mirror, on a rate element basis, the rates of the ILEC providing service in the NEC's service area unless the NEC chooses to set its own rate for transport and termination of toll traffic pursuant to the Commission pricing guidelines.
- Transit Traffic Compensation: For traffic which originates with one carrier's end user and terminates on a second carrier's end user and is transmitted using an intermediate third carrier's network, the intermediate carrier shall be compensated for the use of its facilities to complete the call. The intermediate carrier may provide transit traffic either by : a) using its public switched network, and shall be compensated at its tariffed exchange access rates (excluding CCLC and RIC) similar to existing arrangements between ILECs, or b) providing direct interconnection between the originating and terminating carriers if they are collocated at the intermediate carrier's central office. However, LECs are not precluded from negotiating other arrangements.

- Meet Point Billing (MPB) arrangements shall be used in billing for compensation for all types of traffic exchanged between ILECs and NECs.

SECTION V PRICING STANDARDS

Pricing for Interconnection and Unbundled Network Elements

- The price shall be set at LRSIC, plus an appropriate allocation of joint costs, plus 10% of the sum of LRSIC and the allocated joint costs for the recovery of common costs. The allocation of joint costs shall be based upon measures of utilization, including such measures as: number of circuits, MOUs, and bandwidth, and shall be evaluated by the Commission on a case-by-case basis. The profit level included in the LRSIC shall be the LEC's forward-looking cost of capital.

LRSIC for Interconnection and Unbundled Network Elements

- Costs associated with the unbundling of network elements; any avoided costs resulting from selling unbundled network elements on wholesale rather than bundled retail services; the geographically-deaveraged costs of the unbundled network elements the LEC plans to offer; and any cost-based volume discount the LEC plans to offer.

Pricing of Transport and Termination for Local Traffic

- Prices for the transport and termination for local traffic shall be set above a price floor reflecting LRSIC, plus an appropriate allocation of joint costs, plus 10% of the sum of LRSIC and the allocated joint costs for the recovery of common costs. Also, the price for the transport and termination for local traffic shall be set at a level that in the aggregate (i.e. including flat-rate, message, measured, and EAS), on a total customer basis (i.e. residence and business), at the end user's rates in effect at the time the transport and termination for local traffic are determined. The price ceiling shall be the maximum price to be established which would allow the LEC to pass that imputation test. Joint costs shall be allocated according to the method establish above.

Wholesale Pricing

- Wholesale prices shall be determined on the basis of the retail rates charged to subscribers excluding portions thereof attributable to any marketing, billing collection, and other costs that are avoided by the ILEC. The avoided costs shall include, but not limited to, costs assigned to Accounts 5300, 6610, 6611, 6612, 6613, 6621, 6622, and Account 6623. For ILEC

retail telecommunications services offered at a discount or in a promotion, the wholesale price shall be set at either the promotional rate minus 10% or the wholesale rate, whichever is lower.

Imputation Standards

- ILECs shall charge all customers which purchase its network elements the same price for the network element that it charges itself in determining the cost of all services it offers that require that network element as an input (essential input). The essential input shall mean a facility, functionality, or service offered by an ILEC for which an equivalent alternative or functional substitute, including self-provisioning by the competitor in a considerable segment of the relevant market or geographic area, is not available from any other provider within the relevant market or geographic area in which that facility, functionality, or service is offered at comparable rates, terms and conditions.

SECTION VI TARIFFING REQUIREMENTS

Structure

- The guidelines require all LECs shall maintain end user tariffs.
- LECs providing service through their own facilities shall maintain a carrier-to-carrier tariff in those service areas.
- The Carrier-to-carrier tariff shall include services, features, and functionalities for purchase by and certified carrier.
- The Carrier-to-carrier tariff shall include retail services available for resale at wholesale prices for purchase by any certified carrier.

End User Rates

- NECs may charge end users rates based upon the marketplace.
- ILECs end user rates will be subject to each ILEC's currently applicable regulatory framework. All ILECs are afforded the opportunity to seek approval for an alternative regulation plan.

Carrier-to-Carrier Tariffing Guidelines

- A carrier must be certified to buy out of the carrier-to-carrier tariff of a LEC.
- ILECs initial tariff filing for resale services shall not be subject to an automatic approval process.
- A facilities-based NEC shall file a tariff for resale services with the Commission.
- ILECs carrier-to-carrier tariff filings after the initial tariff filing shall be processed based on each ILEC's currently applicable regulatory framework.

Promotions - End User and Carrier Resale Tariffs

- NEC's promotions must be identified in price lists and filed with the Commission.
- NEC's promotional offering shall be effective on the day of filing.
- The only limitation upon a NEC shall be that the waiver of any charges other than a non-recurring charge shall be limited to 90 days on a per customer basis.
- ILECs' promotional offerings shall be processed based on each ILEC's currently applicable regulatory framework.

Deaveraging

- NECs and ILECs may requests deaveraging by customer type or class.

Contractual Arrangements

- LECs may enter into contractual arrangements with end users for services, but rates for such services or products must be included in the end user tariff, with the exception of Commission approved special assemblages or unique arrangements. Terms and conditions must not be inconsistent with the end user tariff.
- The ILECs submit cost studies for end user contracts according to their currently applicable regulations.
- All Commission approved, end-user contracts shall be made available to all similarly situated customers on an non-discriminatory basis.

- NECs docket their end user contract applications with the Commission with the Commission within 10 days of signing.

Fresh Look Provision

- ILEC customers with contractual arrangements for remaining terms in excess of one year from the date of Commission verified operational interconnection in that ILEC's territory, will be allowed to end such arrangements.
- The opportunity to end such arrangements will exist for a period of 90 days from the date of the first Commission verified operational interconnection in that ILEC's service territory.
- The Commission will establish customer notification procedures.
- If a party chooses to terminate such arrangements within the 90-day period, the termination charge will be as follows: the ILEC may not charge more than the difference between: (a) the amount the customer has already paid; and (b) any additional charges that the customer would have paid for service if the customer had taken a shorter term offering that would have been available for the term actually used.

Tariff Filing Parity

- Once a NEC is operational in an ILECs serving area an ILEC may apply for tariff filing flexibility applicable to its entire service territory. The tariff filing flexibility will be equivalent to the tariff filing procedures set forth for the NECs in these guidelines.
- In order to receive such flexibility the ILEC must file an application detailing how the ILEC meets the criteria to receive flexible tariff filing treatment.
- The Commission will set a period of time for the filing of written comments concerning the application and reserves the right to schedule a hearing, if necessary. However, the Commission will expedite proceeding on the request.
- Once the application is approved, the ILEC will file all future applications according to the tariff filing procedures set forth for the NECs in these guidelines.

**SECTION VIII
UNBUNDLING**

- All facilities-based LECs are required to offer technically feasible unbundled network elements in response to a bona fide request from a certified local service provider.
- Unbundled network element shall be priced at cost-based rates.
- Unbundled network elements cannot replace the currently bundled service offerings.
- Once a network element has been unbundled for an interconnecting carrier, the providing LEC shall make the same element available for all similar requests.

**SECTION IX
RESALE**

- The guidelines reflect that all tariffed services in a LEC's end user tariff shall be available for resale.
- Each LEC providing local service through its own facilities or in combination with its own facilities shall maintain a carrier- to-carrier tariff which would include its resale offerings.
- The guidelines place reciprocal resale obligations upon all carriers.
- ILEC services offered at a discount or in a promotion shall be made available for resale at a wholesale rate approved by the Commission.
- NEC services offered at a discount or in a promotion shall be made available for resale at reasonable, non-discriminatory, competitive rates approved by the Commission.
- Each LEC shall make its services available for resale, but may, subject to Commission approval, place reasonable restrictions on the resale of residential services to business customers.

**SECTION X
DIALING PARTY AND 1+ INTRALATA PRESUBSCRIPTION:**

- All PEC ILECs shall provide 1+ intraLATA presubscription to all its subscribers within 12 months of the Commission's order.

- Ameritech Ohio shall provide 1+ intraLATA presubscription to all its subscribers at such time its seeks approval of the federal competitive checklist or by February 9, 1999 whichever is sooner.

SECTION XIII UNIVERSAL SERVICE

Contributions

- All telecommunications carriers, including cellular carriers, will pay into the Universal Service Fund (USF) via a surcharge based on a percentage of each carriers intrastate revenues. To provide incentives for carriers to serve all classes of customers, the Commission will consider the mix of customers served by each carrier in determining the percentage surcharge assessed.

High Cost Support

- Any facilities-based LEC serving residential customers in an area determined to be eligible for HCS funding may withdraw from the Universal Service Fund. The incumbent LEC will retain the carrier of last resort obligation for at least one year after enactment of these guidelines. The Commission will then evaluate whether to implement a bidding process or some other mechanism for the carrier of last resort obligation as a requirement for ongoing eligibility for HCS funding.
- The need for HCS funding will be determined at the wire center level although either the LEC or facilities based NEC may petition for an alternative area. The subsidy will be based on the difference between the benchmark cost to serve residential customers in that area and the total residential revenues received in that same area including revenues from vertical services and wholesale payment by resellers for resale of residential services. The benchmark costs will be determined by the "Benchmark Cost Model" submitted by the joint sponsors in CC Docket No. 80-286. The Commission may also adopt any subsequent revisions to this model and will also consider alternative models on a case-by-case basis. Rural LECs and rural carriers will be eligible for HCS funding only if such carriers' return on equity does not exceed 12% and they are not exempt from competition under Section II.A.2.b. and d. of the guidelines.

Fund Administration

- The USF will be managed by a neutral, third party administrator, selected through an RFP process. The administrator will be subject to the Commission's oversight.

**SECTION XIV
NUMBER PORTABILITY**

- The Commission adopted location routing number (LRN) true service number portability as the appropriate permanent number portability solution for Ohio.
- Where facilities permit and upon a bona fide request for interconnection by a certified local service provider, a providing carrier would have an obligation to provide LRN true service number portability. Where facilities do not permit the introduction of LRN true service number portability upon a bona fide request, interim number portability shall be accomplished on an RCF or DID basis.
- The costs of implementing this permanent number portability solution shall be borne by all telecommunication carriers in accordance with Section 251(e)(2) of the 1996 Act.



NEWS RELEASE

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The Public Utilities Commission of Ohio • Craig A. Glazer, *Chairman* • 180 East Broad Street, Columbus, Ohio 43215-3793

96-72

FOR IMMEDIATE RELEASE

June 12, 1996

PUCO ADOPTS GENERIC GUIDELINES FOR LOCAL TELEPHONE COMPETITION

COLUMBUS, OH -- The Public Utilities Commission of Ohio (PUCO) today adopted generic consumer protection guidelines to launch local telephone competition in Ohio. The landmark guidelines complete the regulatory framework in Ohio to allow competition among companies for the \$3 billion a year intrastate local exchange telephone business.

Thirteen companies so far have requested PUCO approval to offer local exchange services in competition with Ohio's 42 existing, or "incumbent" local exchange providers.

The generic guidelines outline a broad set of policies and procedures that must be followed by companies wishing to offer local exchange telephone service in Ohio. They are to be reviewed automatically by the PUCO within three years.

The generic guidelines are the result of nearly two years' work by the staff of the PUCO. A preliminary working draft was released publicly March 24, 1995 and was the subject of a series of public roundtable discussions last spring and summer. On September 27, 1995, the staff of the PUCO released a revised set of guidelines for public comment. More than 5,000 pages of comments subsequently were filed, include the transcripts of 10 public forums hosted by the PUCO in Cleveland Heights, Cleveland, Warren, Athens, Dayton, Cincinnati, Vanlue, Akron, Toledo and Columbus.

The guidelines include:

***** SLAMMING** - No local telephone company customer can be switched to another local carrier without the written approval of the customer.

***** UNIVERSAL SERVICE** - The creation of a state universal service fund to ensure that reasonably priced service is available to rural areas and to low-income customers.

-more-

Generic Guidelines 2-2-2

*** **SERVICE STANDARDS** - A requirement that all companies offering local exchange service in Ohio meet and maintain Minimum Telephone Service Standards on, among other service related matters, the repair of outages, the installation of new service and the keeping of service appointments.

*** **NUMBER PORTABILITY** - Any current telephone company customer can switch to another provider without having to change telephone numbers.

*** **LOCAL CALLING AREA** - Language to allow new local exchange companies to self-define the local calling area they wish to serve, thereby allowing an unlimited number of calls within that area for a flat, monthly rate.

*** **DIRECTORIES** - A requirement that all customers of a local exchange company receive a free listing, if they choose, of their number in a directory. In addition, each customer shall receive a directory at no cost containing the listed numbers of all customers within a specific geographic area.

*** **911** - A requirement that all new local exchange companies provide 911 service where it now is offered or where it may become available.

*** **INTERNET ACCESS** - All local exchange providers in Ohio offer service capable of data transmission of at least 9600 Baud.

*** **LOW INCOME SUBSIDIES** - All telecommunications companies shall provide support to the universal service fund based on a percentage of intrastate revenues.

(A copy of the generic guidelines is available on PUCO's Internet home page on the World Wide Web.)

PUCO Guidelines for Local Telephone Competition

CONSUMERS

- Prohibition against slamming
- Universal service
- Minimum service standards
- Number portability
- Local calling area
- Directories/directory assistance
- 911
- Internet access at 9600 baud
- Low income subsidies

PUCO Guidelines for Local Telephone Competition

EXISTING TELEPHONE COMPANIES (Local Exchange Carriers or LECs)

- Regulatory parity, to allow rapid deployment of competitive services
- Universal service funding
- Exemption for smaller companies
- Mandatory review of PUCO regulations within three years

PUCO Guidelines for Local Telephone Competition

NEW COMPETITIVE COMPANIES (New Exchange Carriers or NECs)

- Mandatory interconnection at cost-based rates
- Streamline certification – 60 days
- Access to unbundled services
- 1+ intraLATA dialing

**Responsibilities of the
PUCO
under the federal
Telecommunications Act of 1996**

- Verify to the FCC Ameritech's compliance with the "competitive checklist" to allow the RBOC entry into the interstate long distance market
(section 271)
- Review requests for exemption from regulation filed by rural LECs
(section 251)
- Review interconnection agreements and act as arbitrator on unresolved issues
(section 252)

ANNUAL INTRASTATE REVENUE FOR OHIO'S TELEPHONE COMPANIES

Company	1993 Revenue	1994 Revenue	1995 Revenue
ALLTEL Ohio, Inc.	\$ 59,479,665	62,315,023	65,949,911
Arcadia Telephone Co.	753,968	562,530	559,401
Arthur Mutual Telephone Co.	510,329	523,746	571,149
Ayersville Telephone Co.	427,098	429,503	444,227
Bascom Mutual Telephone Co., Inc.	414,243	462,913	472,151
Benton Ridge Telephone Co.	550,140	677,217	645,849
Buckland Telephone Co.	531,262	477,279	503,649
Century Telephone Co. of Ohio, Inc.	35,532,457	38,008,709	39,442,308
Champaign Telephone Co.	6,911,679	7,159,343	7,595,970
Chillicothe Telephone Co.	20,805,337	21,264,563	21,239,814
Cincinnati Bell Telephone Co.	348,385,918	373,243,794	385,036,542
Columbus Grove Telephone Co.	773,615	794,619	828,581
Conneaut Telephone Company	3,430,831	3,502,700	3,958,470
Continental Telephone Co.	1,651,485	1,579,310	1,630,424
Doylestown Telephone Co.	1,532,360	1,589,793	1,601,850
Farmers Mutual Telephone Co.	351,503	340,094	341,471
Fort Jennings Telephone Co.	339,658	354,753	362,255
Germantown Independent Telephone Co.	2,008,220	1,814,671	1,716,171
Glandorf Telephone Co., Inc.	203,524	221,889	240,364
GTE North Incorporated	401,128,368	422,319,002	471,533,693
Kalida Telephone Co., Inc.	627,021	654,364	695,709
Little Miami Communication Corp.	1,723,603	1,890,226	1,899,976
McClure Telephone Company	425,654	451,605	448,572
Middle Point Home Telephone Co.	304,528	325,401	273,378
Minford Telephone Co.	1,119,068	1,247,565	1,290,703
New Knoxville Telephone Co.	521,686	690,117	784,312
Nova Telephone Co.	668,921	656,766	705,317
Oakwood Telephone Co.	649,073	654,462	695,401
Ohio Bell Telephone Co.	1,618,731,995	1,643,102,686	1,674,851,569
Orwell Telephone Co.	3,720,389	3,812,887	--
Ottoville Mutual Telephone Co.	529,555	476,630	488,291
Pattersonville Telephone Co.	141,643	153,109	--
Ridgeville Telephone Co.	359,286	405,512	391,402
Sherwood Mutual Telephone Assn., Inc.	539,137	570,504	582,114
Sycamore Telephone Co., The	977,906	1,073,103	--
Telephone Service Co.	3,874,959	4,046,269	4,278,614
United Telephone Co. of Indiana	751,251	542,908	569,717
United Telephone Co. of Ohio	268,674,314	285,400,683	291,297,424
Vanlue Telephone Co.	340,292	472,056	376,557
Vaughnsville Telephone Co.	145,734	138,114	138,643
Wabash Mutual Telephone Co.	310,848	305,288	324,808
Western Reserve Telephone Co.	78,775,137	77,183,722	81,922,668
Total	\$2,869,864,500	\$2,962,107,546	\$3,066,911,190

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Implementation of the)
Mediation and Arbitration Provisions of the) Case No. 96-463-TP-UNC
Federal Telecommunications Act of 1996.)

ENTRY

The Commission issues the following entry:

By this entry, the Commission requests comments concerning potential guidelines relating to implementation of the mediation and arbitration provisions of Section 252 of the Federal Telecommunications Act of 1996 (the Act). Interested persons may submit written comments to the Commission by June 13, 1996. Reply comments may be submitted by June 21, 1996. The Commission recognizes that these comment periods are brief. However, these comment time frames are established because the Commission hopes to have procedures in place when requests for Commission mediation and arbitration pursuant to the Act are received. The Commission anticipates that arbitration requests may be received by the end of June 1996.

Section 251 of the Act requires, among other things, each telecommunication carrier to interconnect with the facilities and equipment of other carriers. Additionally, this section imposes on telecommunications carriers the duty to negotiate in good faith the terms and conditions of their interconnection agreements.

Section 252 of the Act provides for negotiation, mediation, arbitration, and approval of interconnection agreements between telecommunications providers. Specifically, Section 252(a) of the Act provides that any party negotiating an agreement under Section 252 may ask the Commission to participate in the negotiations and to mediate any differences arising during the negotiations. Any interconnection agreement adopted by negotiation must be submitted to the Commission for review and approval. The Commission must act to approve or reject the negotiated agreement within 90 days after submission by the parties. If the Commission does not act, the agreement shall be deemed approved.

Section 252(b) of the Act prescribes Commission participation in compulsory arbitration proceedings upon request of a negotiating party. During the period between the 135th to the 160th day after the date on which local exchange carrier receives a request for negotiation, any party to the negotiation may petition the Commission to arbitrate any open issues. In resolving by arbitration any open issues, the Act requires the Commission to ensure that the resolution and conditions meet the requirements of Section 251; establish rates for interconnection, services, or network elements; and provide a schedule for implementation of the terms and conditions by the parties to the agreement. The Commission is required to conclude the resolution of any unresolved issues

not later than nine months after the date on which the local exchange carrier received the request to negotiate. Once the arbitration process is complete, the arbitrated interconnection agreement between the carriers must be submitted to the Commission for review and approval. The Commission must act within 30 days after the agreement is submitted. In the event of Commission inaction, the agreement is deemed approved.

As mentioned above, the Act provides for Commission mediation and arbitration of disputes which may arise while the parties attempt to negotiate an agreement. For arbitration, the Act also requires the Commission to complete the process within a specific time frame as set forth in Attachment A. Accordingly, the Commission finds it is appropriate to establish guidelines concerning our role in the mediation and arbitration process. The proposed guidelines covering mediation and arbitration are set forth in Attachment B. The Commission requests interested parties to comment on the mediation and arbitration procedures outlined in the proposed guidelines. Parties may comment on all aspects of the proposed guidelines. Nevertheless, the Commission specifically requests the parties to address several issues.

The Act appears to require issue-by-issue, as opposed to final-offer arbitration. The Act also prescribes in general terms the basic steps which the Commission must take to implement the dispute resolution process. However, the Act does not specify the form of arbitration. Arbitration may be conducted by a single arbitrator or by a panel. For purposes of these guidelines, a panel is proposed to ensure that the arbitrators have the necessary procedural, legal, and technical knowledge. Interested persons are requested to comment on whether or not a panel is preferred over a single arbitrator.

The proposal does not require that the staff who may participate in the mediation process be separate from the staff who participate in the arbitration process that involves the same dispute. The Commission believes that it may be more efficient to use the same persons to conduct both the mediation and the arbitration process. Nevertheless, the Commission is interested in hearing comments on whether separate staff should be used to conduct the mediation and the arbitration process.

Section 252(b)(4)(A) of the Act requires this Commission to limit its consideration of an arbitration petition to the issues set forth in the petition and in the response. Further, Section 252(b)(4)(C) of the Act requires the Commission to conclude the resolution of the unresolved issues not later than nine months after the date on which the local exchange carrier received the request for interconnection. The Commission seeks specific comments on whether the work to be accomplished in the nine-month period includes only the issues addressed in the petition or the completion and submission of an entire interconnection agreement. The proposed guidelines assume the completion of the arbitration of open issues only will be completed within the nine-month time period.

As stated above, Section 251(c)(1) of the Act requires the parties to negotiate in good faith the terms and conditions of their interconnection agreements. For this process to be successful, it is incumbent upon both parties to exchange relevant information to review the reasonableness of the proposed rates. The Commission places parties on notice that it expects full cooperation from both sides in providing such information, with limited proprietary protections where absolutely necessary. Each side is responsible for informing the Commission if this provision is not being complied with. The Commission seeks specific comments on how it should enforce this provision.

It is, therefore,

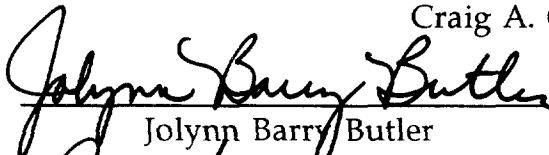
ORDERED, That interested parties file comments on the proposed mediation and arbitration guidelines no later than June 13, 1996. Reply comments may be filed no later than June 21, 1996. It is, further,

ORDERED, That a copy of this entry be served upon all telephone companies in Ohio, the Ohio Telephone Association, the Office of the Consumers' Counsel, all new local exchange companies with pending applications, the city of Cleveland, the city of Toledo, the city of Cincinnati, the city of Columbus, the city of Dayton, and any other interested person.

THE PUBLIC UTILITIES COMMISSION OF OHIO



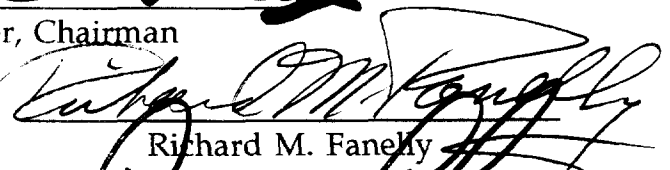
Craig A. Glazer, Chairman



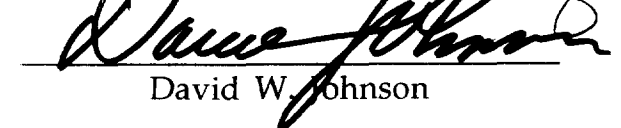
Jolynn Barry Butler



Ronda Hartman Fergus



Richard M. Fanelly



David W. Johnson

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Entered in the Journal

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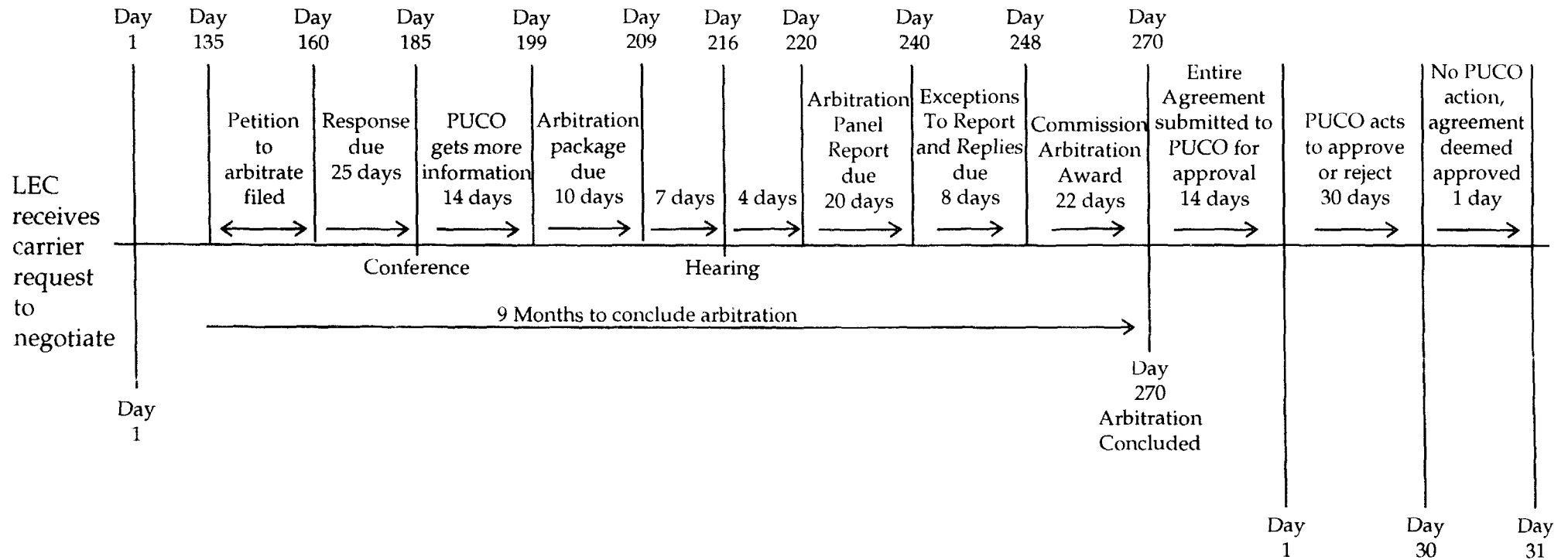
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Gary E. Figorito
Secretary

Arbitrated Agreements

110 days - Arbitration Period



PROPOSED GUIDELINES FOR
MEDIATION AND ARBITRATION

I. Purpose and Scope

- A. Section 252 of the Federal Telecommunications Act of 1996 (the Act) provides for the negotiation, mediation, arbitration, and approval of agreements between carriers concerning requests for interconnection, services, or network elements. These guidelines govern the procedures which will be used by the Public Utilities Commission of Ohio to resolve disputes between carriers through mediation and arbitration in the event of a request under Section 252 of the Act.
- B. These guidelines apply to any request to mediate filed by a party to a negotiation or to a petition to arbitrate open issues filed by any party to the negotiation.

II. Definitions

- A. The meaning of terms used in these guidelines shall be consistent with their general usage in the telecommunications industry unless specifically defined by Ohio law or Ohio Administrative Code rule.
- B. "Mediation" is a voluntary alternative dispute resolution process in which a neutral third party assists the parties in reaching their own settlement. The mediator does not have the power to impose a resolution. The role of the mediator and the goal of the process is to help the parties achieve their own resolution.
- C. "Arbitration" is an alternative dispute resolution process whereby parties present evidence and legal arguments to a neutral third party, called an arbitrator or an arbitration panel, who renders a decision. The parties are required to accept the arbitration decision, subject to Commission approval.
- D. "Party to the negotiation or arbitration" means any telecommunications carrier providing or intending to provide telecommunications services in Ohio that is a party to the negotiation for an interconnection agreement following a request made by a carrier to a local exchange carrier.

- E. "Petition for arbitration" means the petition requesting arbitration of open issues in the negotiation of an interconnection agreement.
- F. "Petitioner" means the party to the negotiation that files the petition for arbitration with the Commission.
- G. "Respondent" or "responding party" means the nonpetitioning party to the request for arbitration.

III. Commission Notification

Any local exchange carrier that receives a request for negotiation under Sections 251 and 252(a)(1) of the Act shall notify in writing the chief of the telecommunications division of the Commission within five calendar days after receiving the request to negotiate.

IV. Mediation

- A. At any point during the negotiation, any party or both parties to the negotiation may ask the Commission to mediate any differences arising during the course of the negotiation.
- B. To request mediation, a party to the negotiation shall notify in writing the chief of the telecommunications division of the Commission. A copy of the mediation request should be simultaneously served on the other party in the dispute. The request shall include the following information:
 - 1. The name, address, and telephone number of the party to the negotiation making the request.
 - 2. The name, address, and telephone number of the other party to the negotiation.
 - 3. The name, address, and telephone number of the parties' representatives who are participating in the negotiations and to whom inquiries should be made.
 - 4. The negotiation history, including meeting times and locations.